

WILLIAM W. McCLELLAN

vs.

WILLIAM CROOK.

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MARCH TERM, 1849.

[INJUNCTION TO RESTRAIN EXECUTION OF A DECREE OF THE COURT OF APPEALS—
CHANCERY PRACTICE.]

THOUGH this court has not the power to review, in the proper sense of that term, a decree of the court of appeals, either upon the state of facts upon which that court acted or any others, yet when a state of facts has arisen since such decree was passed showing its *satisfaction*, this court may interfere by injunction to prevent the decree from being used as an instrument of injustice, and an original bill is the proper form to be adopted in such circumstances.

[A bill was filed on the 21st of July, 1843, by William Crook, as the assignee of a mortgage of certain leasehold property in the city of Baltimore, against Wm. H. McClellan, for a sale of the mortgaged premises to satisfy the mortgage debt. The complainant, Crook, had been for many years tenant of the mortgaged premises, and two accounts were stated by the Auditor on the 19th of November, 1844, one of which the Chancellor ratified on the 16th of December, 1844, and decreed that the property be sold for the payment of the sum found by this account to be due the complainant. From this decree the defendant, McClellan, appealed, and the Court of Appeals at their June term, 1846, reversed the decision of the Chancellor, and instead of remanding the cause for further proceedings generally, directed an audit to be made in conformity with their views, by a special Auditor appointed by them for that purpose, who accordingly reported an account in which interest was charged upon the mortgage debt yearly, and the rent credited yearly from the 14th of May, 1839, to the 19th of November, 1844, the date of the Auditor's report, affirmed by the Chancellor. The appellate court then on the 26th of June, 1846, passed a decree reversing with costs the decree of the Chancellor of the 16th of December, 1844, ratifying and confirming the account stated by their special Auditor, and for the purpose of enforcing the payment of the claim thereby found to be due